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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN JOSE DIVISION**
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11
12 THE OTTER PROJECT and
13 ENVIRONMENTAL DEFENSE CENTER,

14 Plaintiffs,

15 v.

16 KEN SALAZAR, ROWAN GOULD,
17 UNITED STATES DEPARTMENT OF
18 THE INTERIOR, UNITED STATES FISH
& WILDLIFE SERVICE,

19 Defendants,

20 CALIFORNIA SEA URCHIN
21 COMMISSION, PETER HALMAY,
22 HARRY LIQUORNIK, CALIFORNIA
23 ABALONE ASSOCIATION, SONOMA
COUNTY ABALONE NETWORK,

24 Intervenor-Defendants.
25

No. C 09-4610 JW

STIPULATION AND [PROPOSED]
ORDER EXTENDING BRIEFING
SCHEDULE AND CONTINUING
HEARING DATE PENDING
SETTLEMENT DISCUSSIONS

26 Pursuant to Civil L.R. 7-12 this Stipulation is entered into by and between Plaintiffs, The
27 Otter Project and Environmental Defense Center, Federal Defendants, Ken Salazar, Secretary of

28 Stipulation Extending Briefing Schedule
and Continuing Hearing Date Pending
Settlement Discussions

1 the United States Department of the Interior, Rowan Gould, Acting Director of the U.S. Fish &
2 Wildlife Service, the United States Department of the Interior, and the United States Fish &
3 Wildlife Service, and Intervenor-Defendants, California Sea Urchin Commission, Peter Halmay,
4 Harry Liquornik, California Abalone Association, and Sonoma County Abalone Network.

5 WHEREAS, on May 20, 2010, the Court entered a Scheduling Order in this matter (Doc.
6 No. 49), which set the parties cross-motions for summary judgment for hearing on November 15,
7 2010, and established October 22, 2010 as the date for completion of summary judgment
8 briefing;

9 WHEREAS, on June 25, 2010, the Court approved the parties' stipulation setting a
10 briefing schedule and referring the above-captioned matter for a Settlement Conference before
11 Magistrate Judge Elizabeth D. Laporte (Doc. No. 53), which has been set for August 26, 2010
12 (Doc. No. 55);

13 WHEREAS, the parties have engaged in settlement discussions over the past month that
14 have proven productive, and have exchanged two rounds of settlement proposals;

15 WHEREAS, the parties wish to continue the settlement discussions and to concentrate
16 their resources on settling, rather than litigating, this matter;

17 WHEREAS, Defendants' deadline for production of the Administrative Record is August
18 16, 2010 (Doc No. 53);

19 WHEREAS, due to their focus on preparation of a comprehensive settlement proposal,
20 Defendants are unable to compile the Administrative Record by August 16, 2010;

21 WHEREAS, Defendants need an extension of at least 60 days to prepare the
22 Administrative Record in the event the present settlement discussion are not successful;

23 WHEREAS, all parties believe that diversion of Defendants' resources into finalization
24 of the Administrative Record would needlessly and unduly impede their settlement discussions;

25 WHEREAS, the parties believe that the briefing schedule should be extended so as not
26 needlessly to divert all parties' resources into litigation rather than settlement activities;

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1 WHEREAS, the parties agree that a 60-day extension of the production, briefing and
2 hearing deadlines is appropriate;

3 NOW, THEREFORE, the parties stipulate as follows:

- 4 1. Defendants shall file and serve the Administrative Record on or before October 18, 2010.
- 5 2. Plaintiffs or Intervenor-Defendants shall file any motion challenging the contents of the
6 Administrative Record on or before November 12, 2010. The filing of such a motion
7 shall vacate any summary-judgment briefing and hearing schedule.
- 8 3. The parties shall file their motions for summary judgment on or before November 15,
9 2010.
- 10 4. The parties shall file oppositions to motions for summary judgment by December 6,
11 2010.
- 12 5. The parties shall file summary-judgment replies by December 20, 2010.
- 13 6. The hearing on the parties' cross-motions for summary judgment, presently set for
14 November 15, 2010, at 9:00 a.m., shall be continued to January 24, 2011 at 9:00 a.m.

15
16 August 10, 2010

Respectfully Submitted,

17
18 /s/ Brian Segee (by LEF, as authorized 8/9/10)

Linda J. Krop (Cal. Bar. No. 118773)

19 Brian Segee (Cal. Bar No. 200795)

20 Environmental Defense Center

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24 Attorneys for Plaintiffs

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26 IGNACIA S. MORENO, Asst. Attorney General

27 SETH M. BARSKY, Acting Section Chief

28 Stipulation Extending Briefing Schedule
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/s/ Lawson E. Fite

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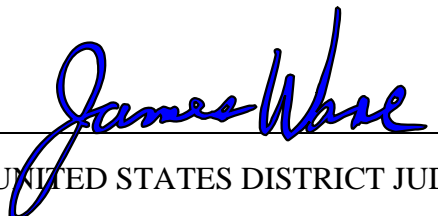
/s/ George J. Mannina, Jr. (by LEF, as authorized
8/10)

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: August 17, 2010


UNITED STATES DISTRICT JUDGE

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